

## REMARKS

In reviewing the amendment dated June 16, 2003 several typographical errors were noted. Amendment to the specification has been proposed to correct those typographical errors and to add additional discussion of the prior art.

By the present Amendment, Applicant respectfully requests that a claim of priority under 35 U.S.C. § 120 be added to the present application designating it as a continuation-in-part application of Application Serial Number 29/145,604, filed July 25, 2001, now issued to the Applicant as U.S. Patent No. D457,972, a copy of that patent being enclosed herewith. This amendment is filed concurrently with a Petition to Claim Benefit Under 35 U.S.C. § 120 of a Prior Copending Nonprovisional Application, which applicant respectfully submits satisfies the remaining requirements under 37 C.F.R. § 1.78(a)(3) for making this priority claim.

Claim 33 and 34 have been cancelled and claims 37-51 added.

The method and device claimed in claims 37-51 are contrary to anything taught or suggested in either one of the Kunz references or the Peterson reference. The plaster type construction referred to in Peterson was typically along the lines of a 1/4-inch thick, whereas the thickness of compound normally used in drywall joint construction is only about 1/8-inch thick. To manufacture Peterson with multiple ridges in a single flap, or with ridges sufficiently small to be useful in a drywall joint covered with conventional compound, would be contrary to Peterson. In fact, to form multiple ribs in a flange of Peterson would be nonsensical. Further, to reduce their size to a configuration which

would function well in a dry joint compound would result in a rib construction which would not project completely through the layer of a plaster construction, as referenced in Peterson, thus defeating the very objective set forth in his patent.

Claim 37 is directed to a protective finishing strip for drywall construction that spans a seam between drywall panels, and is anchored in position by cooperation of the joint compound and the elongated grooves and ridges in the flaps.

This construction is neither shown or suggested in the art. Peterson relies on nails to anchor his device in position. He does not propose joint compound on the interior of flexible flaps in a covering strip bonded to a core. Rather, he incorporates the divider ribs in the core itself.

Kunz also fails to propose ridges and grooves in paper flaps. There is no incentive in the art to combine Kunz and Peterson and, even if combined, the combination would not produce Applicant's claimed construction.

The character of the single metallic rib on each flange in Peterson is not the same as Applicant's claimed ridges and proves neither anticipation nor obviousness. As noted *In Re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q. 2d 1313-1317 (Fed. Cir. 2000), even where the technological concept is simple, a mere citing of a prior art system with multiple sensor is not the same as proving it is the same as a single sensor.

If the proposed invention would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In Re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984).

Here there is no showing that the specific understanding within the knowledge of a skilled artisan would have motivated the artisan to modify Kunz to incorporate the metallic rib of Peterson, change it to a paper rib and add additional ribs. Hence, there is no objective reason to combine the references. *Ex Parte Levengood*, 28 U.S.P.Q. 2d 1300 (Bd. Pat. App. & Inter. 1993).

To reduce the dimensions of the Peterson rib, move it from the metal core to a paper flap and add additional ribs would change the principles of his invention. *In Re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959).

Claim 39 calls for grooves in the exterior of the flaps to direct compound into perforations located in the base of such grooves and projecting through the flaps. Again, such a modification is contrary to Peterson.

Claim 41 calls for the core and paper cover construction with the flap being formed with a plurality of ridges on the interior thereof. It is noted, this arrangement is neither shown or suggested in the art.

Claims 42-45 all depend from claim 41 and are likewise believed allowable.

Claim 46 recites a method involving the manufacture of the drywall finishing device by forming anchoring grooves and ridges on the underside of a flap projecting from a core for imbedding in joint compound applied between the flap and a drywall panel.

Claim 49 recites a method of constructing a drywall joint including the positioning of drywall panels together, covering the seam with a core having fibrous flanges projected therefrom and formed on the underside with anchoring ridges and grooves and

interposing compound between such ridges and grooves and the surface of the drywall panel.

There is no suggestion of mounting Peterson's flange on a drywall panel nor is there any suggestion or any art of interposing joint compound underneath either of the flanges shown in Peterson.

Claim 51 calls for the flanges to be formed with exterior grooves and perforations align therein. This arrangement is contrary to Peterson who does not address flowing joint compound through fibrous flaps. Nor does Kunz suggest such a construction. To reconstruct Kunz with grooves and ridges would be to take an entirely different approach to the anchoring of paper flaps.

Kunz fails to provide ridge and groove construction on the underside of his flaps, and also fails to suggest exterior grooves with perforations for receipt of compound.

The fact that Kunz did not appreciate the benefits of indentations in paper flaps to enhance the anchoring effect is further borne out by his later filed C-I-P patent application, which was filed on September 28, 2001 and issued on April 1, 2003 as U.S. Patent No. 6,539,680. Therein, he discusses the formation of dimples 26 to cause them to act as "standoffs," providing a uniform depth of mud 30 along the entire length of wings 22 and 24 and providing anchorage into the joint compound or "mud" (column 4, line 20-23). Had it been obvious to Kunz to modify the prior art and combine as suggested by the Examiner, he would have done that in 2000 when the application was filed for his '776 patent.

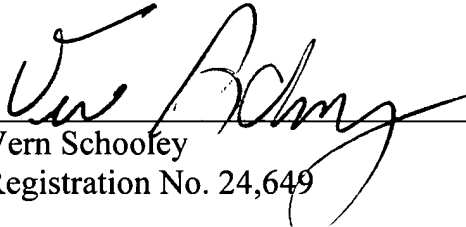
It is believed that the claims in this case are now in condition for allowance and early notice thereof and is respectfully solicited.

In the event the Examiner should not be agreement, it is requested that he contact the undersigned to attorney to discuss any revisions that should be made to the claims to place in condition for allowance. Applicant has made an important invention and that invention is defined in the claims.

Respectfully submitted,

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